

PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

PCT

To:

see form PCT/ISA/220

WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY (PCT Rule 43bis.1)

22.11.2004

Date of mailing
(day/month/year) see form PCT/ISA/210 (second sheet)

Applicant's or agent's file reference
see form PCT/ISA/220

FOR FURTHER ACTION
See paragraph 2 below

International application No.
PCT/GB2004/001064

International filing date (day/month/year)
12.03.2004

Priority date (day/month/year)
21.03.2003

International Patent Classification (IPC) or both national classification and IPC
H04L12/56

Applicant
MARCONI UK INTELLECTUAL PROPERTY LIMITED

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☒ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☐ Box No. VII Certain defects in the international application
- ☐ Box No. VIII Certain observations on the international application

2. **FURTHER ACTION**

If a demand for international preliminary examination is made, this opinion will usually be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA"). However, this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of three months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA:



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WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

10/550496

International application No.
PCT/GB2004/001064

JC20 Rec'd PCT/PTO 20 SEP 2005

Box No. I Basis of the opinion

1. With regard to the **language**, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.
 - ☐ This opinion has been established on the basis of a translation from the original language into the following language , which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).
2. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
 - a. type of material:
 - ☐ a sequence listing
 - ☐ table(s) related to the sequence listing
 - b. format of material:
 - ☐ in written format
 - ☐ in computer readable form
 - c. time of filing/furnishing:
 - ☐ contained in the international application as filed.
 - ☐ filed together with the international application in computer readable form.
 - ☐ furnished subsequently to this Authority for the purposes of search.
3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.
PCT/GB2004/001064

Box No. II Priority

1. ☒ The following document has not been furnished:

☒ copy of the earlier application whose priority has been claimed (Rule 43*bis*.1 and 66.7(a)).

☐ translation of the earlier application whose priority has been claimed (Rule 43*bis*.1 and 66.7(b)).

Consequently it has not been possible to consider the validity of the priority claim. This opinion has nevertheless been established on the assumption that the relevant date is the claimed priority date.

2. ☐ This opinion has been established as if no priority had been claimed due to the fact that the priority claim has been found invalid (Rules 43*bis*.1 and 64.1). Thus for the purposes of this opinion, the international filing date indicated above is considered to be the relevant date.

3. Additional observations, if necessary:

Box No. V Reasoned statement under Rule 43*bis*.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	2-19
	No: Claims	1,20-23
Inventive step (IS)	Yes: Claims	8-13
	No: Claims	1-7,14-23
Industrial applicability (IA)	Yes: Claims	1-23
	No: Claims	

2. Citations and explanations

see separate sheet

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING
AUTHORITY (SEPARATE SHEET)**

PCT/GB2004/001064

Re Item V.

- 1 The following documents are referred to in this communication:

D1: US 2002/085545 A1 (CHATTOPADHYA SANDIP ET AL) 4 July 2002 (2002-07-04)
D2: KOZAKI T ET AL: "PVC reservation on shared buffer type ATM switch for data communication" COMMUNICATIONS, 1994. ICC '94, SUPERCOMM/ICC '94, CONFERENCE RECORD, 'SERVING HUMANITY THROUGH COMMUNICATIONS.' IEEE INTERNATIONAL CONFERENCE ON NEW ORLEANS, LA, USA 1-5 MAY 1994, NEW YORK, NY, USA, IEEE, 1 May 1994 (1994-05-01), pages 391-396, XP010126773 ISBN: 0-7803-1825-0
D3: US-A-5 748 629 (COLSMAN MATTHIAS L ET AL) 5 May 1998 (1998-05-05)
D4: WO 86/02511 A (HUGHES AIRCRAFT CO) 24 April 1986 (1986-04-24)

2 INDEPENDENT CLAIM 1

- 2.1 The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of claim 1 is not new in the sense of Article 33(2) PCT.
Document D1 discloses (the references in parenthesis applying to this document):

A telecommunications network comprising
a plurality of network elements, switching means, and a traffic stream controller wherein (figure 11), for each network element, there is provided a set of outgoing paths from the network elements to the switching means, one outgoing path carrying traffic streams for each of the network elements, and an incoming path carrying traffic streams from the switching means to the network element,
to route traffic streams from each of the network elements to the network element, the switching means merges each outgoing path carrying traffic streams for the network element onto the incoming path of the network element (figure 5), and routing of the traffic streams to the network element is controlled by the network element using the traffic stream controller (paragraph [0081]).

The attention of the applicant is drawn to document D4 that also anticipates the

subject matter of claim 1. See figure 1 and page 9, lines 23-35 of said document D4.

It should be noted that even if the applicant were to interpret claim 1 in such a manner as to enable him to allege that their subject matter were formally novel, based on non-substantial differences between the features of these claims and those disclosed in documents D1-D4, the subject matter of claim 1 would still not involve an inventive step (Articles 33(1) and 33(3) PCT). Especially as these documents address the same technical problem and disclose the same type of solution as claimed by the applicant.

3 INDEPENDENT CLAIM 23

Claim 23 does not meet the requirements of Article 6 PCT in that the matter for which protection is sought is not clearly defined.

The vague and general wording of claim 23 leaves the reader in doubt as to which technical features from the description and drawings claim 23 refers, thereby rendering the definition of the subject-matter of said claim unclear, Article 6 PCT.

4 DEPENDENT CLAIMS 2-7, 14-22

Dependent claims 2-7, 14-22 do not contain any features which, in combination with the features of any claim to which they refer, meet the requirements of the PCT in respect of novelty and/or inventive step. See documents D2 and D3 and the corresponding passages cited in the search report.

- 5** The combination of the features of independent claims 1 and 8 is neither known from, nor rendered obvious by, the available prior art. It is suggested therefore that a new independent claim be drafted to include these features, bearing in mind that the features known in combination in document D1 should be placed in the preamble of such a claim in accordance with Rule 6.3(b) PCT.